



STATE OF WASHINGTON

STATE BUILDING CODE COUNCIL

Department of Enterprise Services

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Energy Code Technical Advisory Group Joint Commercial and Residential Meeting Meeting Review Notes for June 21, 2023

Agenda Items	TAG Actions
1. Welcome and Introductions	<p>Kjell Anderson, TAG Chair, called the meeting to order at 8:30 a.m. Roll was taken, and introductions of newly appointed members made. Kjell stated the Council has directed the TAG to review revisions to the commercial and residential energy codes to reduce the risk of EPCA preemption based on the ruling in the recent suit against the City of Berkeley. The beginning of the meeting will be devoted to understanding the federal law, federal preemption, and the Berkeley decision, with both TAGs joining the discussion. Then the Residential TAG will break out to consider the residential proposals received, followed by the Commercial TAG discussing the commercial proposals. Kjell laid out the meeting ground rules and procedures for being recognized.</p>
	<p>TAG Members Present: Kjell Anderson, Chair; Daimon Doyle (R); Dave Baylon (R); Mike Fowler (R,C); Scott Henderson (C); Shane Nilles (C); Wade Craig; Ray Allshouse (alt)(R,C); Lisa Rosenow (C); Erik Bedell (C); Sarah Brede (alt)(C); Jonathan Jones (R); David Reddy (R,C); Miguel Rodriguez (alt)(R); Gary Heikkinen (R,C); Kevin Duell (alt)(R,C); Andrea Smith (R); Irina Rasputnis (R,C); Chris Boroughs (alt)(R,C); Poppy Storm (R,C); Greg Davenport (R); Luke Howard (R,C); Liz Reichart (alt)(R); Andrew Pultorak (alt)(C); Shaun Vig (C); Jason Carter (R); Henry Odem (R); Erik Olon (C); Patrick Hayes (R,C); Gavin Tenold (R,C); John Lange (alt)(R,C); Jeanette McKague (R); Gregory Johnson (C); Jonah Kinchy (R); Michael Bragalla (alt)(R)</p> <p>Visitors Present: Jay Arnold, Tom Handy, Craig Holt, Peter Rieke, Bryan Ahee, Anne Armstrong, Tim Attebery, Laura B., Kim Barker, Katya Bautista, S. Bliss, Joseph Briscar, Ian Casey, Kathleen Collins, Michael Cook, Brett Conway, Mallorie Davies, Sean Denniston, Chris Edmark, Bryce Engen, John Frankel, Miller Freeman, Andrea Hochleutner; Mary Hull-Drury, Adam Hutchinson, Hoyt Jeter, Barry Jostol, Kevin Kaul, Mike Kennedy, Jonny Kocher, Eric Lacey, Jeremy Larson, Greg Lasher, Deken Letinich, Koby Lincoln, Carolyn Logue, Noelle Lovern, S. Mangeley, Robert Mathis, Caitlin McIntyre, Nathan Miller, George N., Robby Oylear, Kathleen Petrie, Joel Rasmussen, Ian Robinson, Kevin Rose, John Rothlin, Bryan Russo, Jordan Sanchez, Mark Schuller, Michael Snook, Alyn Spector, Dylan Spencer, Scott Swantek, Katrina T., Steve Tapio, Quyen Thai, Kelly Thomas</p> <p>TAG Members Absent: Jeromy Moore (R); Chris Holliday (C); CJ Brockway (C); Duane Jonlin (R,C); Allan Montpellier (C); Michael Curtright (C); Martin Connor (C);</p> <p>Staff: Stoyan Bumbalov, Dierk Meierbachtol, Krista Braaksma, Dustin Curb, Kristina Irelan, Annette Haworth, Rozanna Ghanie</p> <p>(R) indicates residential code TAG member (C) indicates commercial code TAG member (R,C) indicates membership on both TAGs (alt) indicates an alternate TAG member in attendance</p>
2. Review and Approve Agenda	Agenda approved as written.

3. Outline of the Process and Expectations	Kjell Anderson provided a brief overview of the process. His intent is that the TAGs move forward multiple proposals so that the Council has options to consider with their legal counsel.
4. Review EPCA Considerations and Legal Requirements	Dierk Meierbachtol from the Attorney General's office provided the TAG with some background on the Energy Policy and Conservation Act (EPCA) and the seven requirements for exemption from the preemption rule under that act. The group also briefly discussed the Rivera lawsuit against the Council and how the proposals may impact that action.
5. General Overview of Submitted Proposals Addressing EPCA Concerns	Kjell Anderson provided a summary of the development process for the 2021 Washington State Energy Code. Ultimately, two proposals went through the public hearing process—one based on a prescriptive requirement for heat pumps and one without the heat pump requirements but with a higher number of additional energy credits required. The Council chose to adopt the prescriptive requirement for heat pumps. Most of the proposals received at this time fall into two pathways: removing the prescriptive requirement for heat pumps and adjusting other provisions, or leaving the prescriptive requirements in place and allowing the performance pathway to use any federal minimum rated appliance. The combined TAG meeting was adjourned at 10:20 a.m.
Residential TAG Meeting	The Residential Energy Code TAG meeting was called to order at 10:40 a.m. and roll was called. A quorum was present.
6. Review Residential Energy Code Proposals	Kjell again summarized the types of proposals received for prescriptive, performance and existing building compliance. His preference would be to look at the more comprehensive proposals first. Kjell summarized, for the new members, the reasoning behind the fuel normalization table used in Section R406 to ensure that the same efficiency level and energy use is realized regardless of the type of HVAC appliance used. Kevin Duell presented a spreadsheet showing the similarities and differences between the residential proposals. Dave Baylon moved to not consider proposals 001, 002, 007, 008, 009, 010, 015, 018, 019, 020, 031, 032, 033, and 039. Henry Odem seconded the motion, then withdrew his second upon objections from other TAG members. Greg Davenport then seconded the motion. Dave stated he did not want to revisit the decisions made over the last two code cycles or try to determine options for high efficiency gas systems. After considerable discussion about how to move forward, the motion was withdrawn. After a short debate on whether to begin with the prescriptive or performance pathway, the TAG began discussions on the prescriptive side with 21-GP3-035 and then move through the remaining proposals. Henry Odem explained that this proposal is essentially the same as his original proposal for the 2021 code before the introduction of the heat pump requirement. Some changes were made to correlate with the 2021 code as adopted. Patrick Hayes moved to recommend disapproval of 035, feeling that this did not solve the preemption problem as it was essentially still a gas ban based on cost of construction. Andrea Smith seconded the motion. After some discussion, the motion was withdrawn. The TAG debated the issue of the fuel normalization table and the credits therein, as well as the switch from carbon emissions to energy use. The TAG then reviewed Greg Johnson's proposals 005, 006, 008, and 009. Together they form a comprehensive proposal, addressing specific

	<p>aspects of EPCA and reverting language back to that of the 2018 code but removing the specifications for heat pump sizing and supplemental heating. The TAG briefly discussed the metric used for carbon emissions.</p> <p>Alyn Spector introduced Ty Jennings’ proposals 001 and 002. Kevin Duell similarly introduced his 016, 017, and 020; and Bryan Ahee his 031 and 032. The TAG discussed the various similarities and difference among the proposals.</p> <p>Dave Baylon moved to use 21-GP3-035 from Henry Odem as the primary prescriptive proposal. Greg Davenport seconded the motion.</p> <p>The TAG debated the motion and if the proposal addressed all of the EPCA concerns. They also discussed if passing this motion would preclude action on any other prescriptive options.</p> <p>Patrick Hayes moved to amend the motion to add the credit options from 21-GP3-001 and 21-GP3-020 to 035. Greg Davenport seconded the motion, adding that the point values would be determined by Henry Odem using the same modeling as all other credit calculations. The amendment to the motion carried, 13 to 2 with three abstentions.</p> <p>The main motion was passed, 12 to 7.</p>
7. Adjourn Residential TAG Portion	The Residential Energy TAG meeting was adjourned at 1:20 p.m.
Commercial TAG Meeting	The Commercial Energy Code TAG meeting was called to order at 1:40 p.m. Roll was called and a quorum was present.
8. Review Commercial Energy Code Proposals	<p>Kjell Anderson once again introduced the process the Council tasked the TAG with, and there was a brief discussion of the proposals not considered in this process. Kjell suggested beginning with the building performance pathway.</p> <p>Jonny Kocher introduced his proposal 21-GP3-036, which provides a path for EPCA covered minimum efficiency products in C407 while retaining the energy efficiency gains adopted for the 2021 code. This includes a cleanup item of striking the repetitive section for Group R-2 ventilation. The definition for district energy is modified to correlate with a proposed change in C406. The proposal also removes the carbon emissions table to provide a strictly energy use comparison. The TAG discussed the proposals and the pros and cons of a performance-only path for gas.</p> <p>The next proposal discussed was Gregory Johnson’s 040, reverting back to the 0.8 metric for electrical carbon emissions.</p> <p>Ian Casey introduced his proposal 026 that removes HP space heating from the list of mandatory measures in C407.</p> <p>Erik Bedell moved to recommend approval of 21-GP3-026. Patrick Hayes seconded the motion. The motion carried with no dissenting votes.</p> <p>Gregory Johnson moved to recommend approval of 21-GP3-040. Patrick Hayes seconded the motion. Erik Bedell and Shane Nilles suggested a modification to footnote b to read “When the electric utility that serves the building publishes an alternate emissions factor for electricity, that value is permitted to be used.” The modification was accepted by the maker and second of the motion. The motion failed, 6 to 10.</p> <p>Gregory Johnson moved to recommend approval of 21-GP3-036 as modified to include all the prescriptive path options in 003, 011, 012,</p>

	<p>013, 024, 025, and 029. Patrick Hayes seconded the motion. Objections were voiced on voting on proposals that have not been discussed.</p> <p>Lisa Rosenow moved to table the motion on 21-GP3-036 until after the discussions on the attached proposals. Ray Allshouse seconded the motion. The motion carried unanimously.</p> <p>The next proposal discussed was 003 from Ty Jennings adding a credit option for high efficiency gas water heating. It was noted the point values would need to be calculated and there were some concerns regarding correlation issues and the equation.</p> <p>Poppy Storm moved to recommend disapproval of 21-GP3-003. Mike Fowler seconded the motion. The motion carried with no opposing votes.</p> <p>Ian Casey introduced 025 with another option for adding high efficiency gas credits. This would also need to have the point value calculated by PNNL.</p> <p>Gary Heikkinen moved to recommend approval of 21-GP3-025. Patrick Hayes seconded the motion. The TAG continued discussion of this proposal until the end of the allotted meeting time, but took no further action on the motion. A motion to extend the meeting failed.</p>
9. Adjourn	The meeting was adjourned at 4:04 p.m.

Attachments:

Dierk Meierbachtol's [PowerPoint on EPCA](#)
[California Restaurant Association v. City of Berkeley](#)
[Energy Policy and Conservation Act](#)
[Rivera v. SBCC](#)
[Proposals submitted](#) to address EPCA concerns
Kevin Duell's [comparison of residential proposals](#)